

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DOUGLAS J. WILTSE,

Plaintiff,

V.

DISCOVER FINANCIAL SERVICES, INC.,
a Delaware Corporation; MORGAN
STANLEY, INC., a New York Corporation;
ED KERBS; ALAN KADIN; LUT
CALCOTE; HEATHER HESTON;
EVELYN DELACRUZ; KAREN
DOLLMEYER; JAY ADLER; and
DIANE OFFREINS,

Defendants.

Case No. 07 CV 7073

Judge Manning

Magistrate Judge Keys

**MOTION TO VOLUNTARILY WITHDRAW DEFENDANTS' MOTION TO COMPEL
AND EXTEND TIME TO ANSWER OR OTHERWISE PLEAD**

Defendant, DFS Services LLC (“DFS”), hereby moves to voluntarily withdraw the previously filed Motion to Compel and Extend Time to Answer or Otherwise Plead (“Motion to Compel”) (Docket # 12) and states as follows.

1. On March 13, 2008, DFS and Morgan Stanley filed their motion asking the Court to compel Plaintiff to state in writing whether he would voluntarily dismiss with prejudice Ed Kerbs, Alan Kadin, Lutgarte Calcote, Heather Heston, Evelyn Delacruz, Karen Dollmeyer, Jay Adler, Diane Offereins (collectively, the “Individual Defendants”) and Morgan Stanley as defendants in this case. As DFS and Morgan Stanley noted in their motion, the Court had previously directed Plaintiff to inform Counsel by March 7, 2008 whether he would voluntarily dismiss the above enumerated defendants and that as of March 13, Plaintiff had advised only as to the Individual Defendants. DFS and Morgan Stanley further explained that the deadline to

answer or otherwise plead had been set by the Court to March 21, 2008 in part based upon Plaintiff's compliance with the March 7 response date. In its motion, DFS and Morgan Stanley sought their reasonable attorneys fees and costs incurred in bringing the motion.

2. By the close of business March 17, Plaintiff's Counsel had sent a letter to Counsel for all defendants stating that Plaintiff would voluntarily dismiss Morgan Stanley with prejudice and confirming that he would voluntarily dismiss all of the Individual Defendants with prejudice. On that same day, Plaintiff's Counsel filed a response to Defendants' motion (Docket #14) in which he stated, among other things, that he did not oppose an extension of time for DFS to answer or otherwise plead.

3. In a phone conversation on March 17, Counsel for Plaintiff stated that he would agree to an extension of two weeks for DFS to answer or otherwise plead if DFS would withdraw its motion to compel and its request for attorney's fees and costs.

4. Counsel for both parties have agreed that DFS will withdraw its Motion to Compel, including its request for its attorney's fees and costs, and the parties will file an Agreed Motion to Extend Time to Answer or Otherwise Plead, giving DFS an additional two weeks—until April 4, 2008—to file its responsive pleading.

WHEREFORE, Defendant, DFS Services LLC, respectfully requests that the Court enter an order granting its Motion to Voluntarily Withdraw Defendants' Motion to Compel and Extend Time to Answer or Otherwise Plead.

Dated: March 20, 2008

Respectfully Submitted,

DFS Services LLC

By: /s/ Cheryl Tama Oblander
One of Its Attorneys

Cheryl Tama Oblander
Aviva Grumet-Morris
Winston & Strawn, LLP
35 West Wacker Drive
Chicago, IL 60601-9703
Telephone: (312) 558-5600
Facsimile: (312) 588-5700
ctama@winston.com
agmorris@winston.com

CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Defendant DFS Services LLC, hereby certifies that on March 20, 2008, a true and correct copy of the foregoing MOTION TO VOLUNTARILY WITHDRAW DEFENDANTS' MOTION TO COMPEL AND EXTEND TIME TO ANSWER OR OTHERWISE PLEAD was filed electronically with the Court. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Morris D. Minuskin
The Law Offices of Morris D. Minuskin
21 S. Belmont Street, Unit 1
Arlington Heights, Illinois 60004
Phone: (847) 255-8255
Fax: (847) 255-8950
mdminuskinlaw@aol.com

By: /s/ Cheryl Tama Oblander
One of Defendant's Attorneys